

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

HEATHER GAUTHIER,
Plaintiff,

v.

RICKY SANTIAGO, ET AL.,
Defendants.

05-10136-RWZ

ANSWER OF THE DEFENDANT RICKY SANTIAGO

Now come the Defendant Ricky Santiago (hereinafter, "Santiago," or "the Defendant") in the above-entitled matter and for his answer to each paragraph of Plaintiff's "Complaint" states as follows:

INTRODUCTION

1. This is an introductory paragraph requiring no response.

JURISDICTION

2. This paragraph contains legal conclusions which do not require a response.
3. This paragraph contains legal conclusions which do not require a response.

PARTIES TO THIS ACTION

4. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.
5. Admitted that the Defendant was a City of Lawrence Police Officer; otherwise denied.
6. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.
7. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

FACTS CONCERNING THIS ACTION

8. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

9. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

10. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

11. Admitted.

12. Admitted.

13. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

14. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

15. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

16. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

17. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

18. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

19. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

20. Admitted.

21. Denied.

22. Admitted that the Plaintiff was arrested; otherwise denied.

23. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

24. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

25. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

26. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

27. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

28. Denied.

FEDERAL LAW CLAIMS

COUNT I

42 U.S.C. Section 1983 Claim Against Defendant Ricky Santiago

29. The Defendant incorporates in their entirety his responses to paragraphs one (1) through twenty-eight (28) set forth above.

30. Denied.

31. Denied.

32. Denied.

33. Denied.

COUNT II

42 U.S.C. Section 1983 Supervisory Liability Against Unknown Defendants at Station

34. The Defendant incorporates in their entirety his responses to paragraphs one (1) through twenty-eight (28) set forth above.

35. Denied.

36. Denied.

37. Denied.

38. Denied.

COUNT III

42 U.S.C. Section 1983 Monell Claim Against the City of Lawrence

39. The Defendant incorporates in their entirety his responses to paragraphs one (1) through twenty-eight (28) set forth above.

40. Denied.

41. Denied.

42. Denied.

43. Denied.

44. Denied.

STATE LAW CLAIM

COUNT IV

False Imprisonment Unknown Officers and Defendant Ricky Santiago

45. The Defendant incorporates in their entirety his responses to paragraphs one (1) through twenty-eight (28) set forth above.

46. Denied.

47. Denied.

COUNT V

Malicious Prosecution as to Unknown Officers and Defendant Ricky Santiago

48. The Defendant incorporates in their entirety his responses to paragraphs one (1) through twenty-eight (28) set forth above.

49. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

50. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

51. Denied.

COUNT VI
Negligence Against City of Lawrence

52. The Defendant incorporates in their entirety his responses to paragraphs one (1) through twenty-eight (28) set forth above.

53. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

54. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

55. The Defendant is without sufficient information to enable him to either admit or deny the allegations contained in this paragraph and so denies same.

56. Denied.

57. Denied.

58. Denied.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Plaintiff fails to state a claim against Defendant upon which relief can be granted.

Second Affirmative Defense

Service of process was insufficient as a matter of law.

Third Affirmative Defense

Plaintiff's state law claims are barred under the provisions of M.G.L. c. 258 §10.

Fourth Affirmative Defense

Defendant state that his actions and conduct was performed according to and protected by law and/or legal process and therefore Plaintiff cannot recover.

Fifth Affirmative Defense

Defendant states that he was privileged in his conduct and acts and therefore Plaintiff cannot recover.

Sixth Affirmative Defense

Defendant states that if Plaintiff suffered injuries or damages as alleged, such injuries or damages were caused by someone for whose conduct Defendant was not and is not legally responsible.

Seventh Affirmative Defense

Defendant is entitled to immunity based upon good faith in that the harm suffered by Plaintiff was not a result which reasonable persons in Defendant's position would have known would result from such action.

Eighth Affirmative Defense

Defendant states that at all times relevant hereto he acted without malice toward Plaintiff and that his actions relative to Plaintiff were privileged by virtue of his reasonable, good faith belief that his actions were lawful and within the scope of his discretionary authority as a police officer.

Ninth Affirmative Defense

Defendant is qualifiedly immune from this suit as the alleged acts complained of occurred within the scope of his official duties.

Tenth Affirmative Defense

Defendant states that any force used toward Plaintiff was reasonable under the circumstances.

Eleventh Affirmative Defense

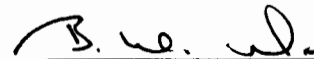
Defendant states that he was justified in his conduct and acts and therefore are not liable to the Plaintiff as alleged in the Complaint.

Twelfth Affirmative Defense

Plaintiff's claims against the Defendant are frivolous, without any basis in fact and not advanced in good faith. Defendant is therefore entitled to attorney's fees, costs and any other sanctions the Court deems appropriate under the terms and provisions of 42 U.S.C. 1983.

DEFENDANT CLAIMS TRIAL BY JURY.

Respectfully submitted,
For the Defendant,
Ricky Santiago,
By their attorneys,




Matthew E. Dwyer, B.B.O.# 139840
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Dated: 5.17.05
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CERTIFICATE OF SERVICE

I, Brian M. Maser, Esquire, hereby certify that I have served a true and accurate copy of the foregoing document upon Marc D. Padellaro, Esquire, Monahan & Padellaro, 43 Thorndike Street, Cambridge, MA 02141, and Charles Boddy, City Solicitor, Lawrence City Hall, Room 306, 200 Common Street, Lawrence, MA 01840, via first class mail, this 11th day of May, 2005.



Brian M. Maser